

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

CASE NO. 00-CR-6300-FERGUSON

UNITED STATES OF AMERICA,

Plaintiff,

V.

BLONITA ROSERIE-ISABELL,

Defendant.

OBJECTIONS TO PRESENTENCE INVESTIGATION REPORT

The Defendant, Blonita Roserie-Isabell, by and through undersigned counsel, respectfully files the following objections to the presentence investigation report ("PSI") prepared by the probation office. Specifically, Ms. Roserie-Isabell objects to 1) the failure to provide a downward adjustment based on her mitigating role in the offense, and 2) the failure to provide a downward adjustment and a sentence below the minimum mandatory based on her compliance with all of the "safety valve" requirements.

Mitigating Role. Paragraph 17 of the PSI currently provides no adjustment for Ms. Roserie-Isabell's role in the offense. Respectfully, Ms. Roserie-Isabell contends that the facts of her case merit a downward adjustment based on her mitigating role in the offense.

Section 3B1.2 of the Sentencing Guidelines provides:

(a) If the defendant was a minimal participant in any criminal activity, decrease by 4 levels

(b) If the defendant was a minor participant in any

criminal activity, decrease by 2 levels.

In cases falling between (a) and (b), decrease by 3 levels.

U.S.S.G. § 3B1.2. According to the Sentencing Guidelines commentary, the “minimal participant” provision:

is intended to cover defendants who are plainly among the least culpable of those in the conduct of a group. Under this provision, the defendant’s lack of knowledge or understanding of the scope and structure of the enterprise and of the activities of others is indicative of a role as minimal participant. . . . It would be appropriate, for example, . . . [i]n a case where an individual was recruited as a courier for a single smuggling transaction involving a small amount of drugs.

U.S.S.G. §3B1.2, comment (n.1 & 2). Further, the Guidelines provide that “a minor participant means any participant who is less culpable than most other participants, but whose role could not be described as minimal.” U.S.S.G. §3B1.2. The Sentencing Guidelines, including the commentary, are binding on this Court. See *United States v. Stinson*, 113 S. Ct. 1913, 1917 (1993).

In the present case, Ms. Roserie-Isabell was a mere drug courier recruited for a single drug smuggling transaction. Ms. Roserie-Isabell imported just over 500 grams of cocaine into the United States from Jamaica. The cocaine was secreted in fifty pellets that she had swallowed and one container that she had stored vaginally. When she was arrested, Ms. Roserie-Isabell gave a full statement to Customs agents detailing her involvement in the smuggling operation. In her statement, which is consistent with the acceptance of responsibility statement contained in the PSI, Ms. Roseire-Isabell outlined how she was recruited by a man named Frank to go to Jamaica for the sole purpose of smuggling drugs back into the U.S. Frank made all of the travel and lodging arrangements, gave Ms. Roseric-Isabell spending money, and instructed her on exactly what to do. Another man in Jamaica, Mike, brought the drug-filled pellets to Ms. Roseric-Isabell for her to swallow. He stayed

to make sure that she swallowed all of the 51 pellets. He then drove her to the airport to meet Frank back in Ft. Lauderdale. Sadly, Ms. Roserie-Isabell never even received payment for her efforts, and she did not even know how much she was to be paid.

From these facts it is evident that Ms. Roserie-Isabell was recruited for a single drug smuggling effort involving 500 grams of cocaine. She did not know, and was never informed, where the drugs were coming from or how they would be distributed once here in the States. She only knew the bare minimum that she would need to know in order to act as a courier. She did not even make, or pay for, any of her travel arrangements. Under these facts, Ms. Roserie-Isabell merits a **four-level** downward adjustment in her offense level based on her role as a **minimal** participant. See U.S.S.G. § 3B12., comment. n.2 (four-level minimal role adjustment proper "where an individual was recruited as a courier for a single smuggling transaction involving a small amount of drugs). At a minimum, she merits a **two or three-level** downward adjustment as a minor participant since she was clearly among the least culpable of those involved in the smuggling and distribution operation. Accordingly, Ms. Roserie-Isabell respectfully requests that this Court grant her a downward adjustment based on her mitigating role in the offense.

Safety Valve. The PSI accurately notes that, generally, importation of 500 grams of cocaine carries a five-year (60 month) minimum mandatory sentence. However, Ms. Roserie-Isabell respectfully contends that she has met all of the "safety valve" criteria, and therefore, she should receive a two-level downward adjustment on her offense level and a sentence within the guidelines and below the minimum mandatory sentence of five years.

Section 2D1.1 of the sentencing guidelines provides that in a drug offense where the initial offense level is **26** or higher, a sentencing court must adjust the offense level downward two levels

if the defendant meets the five criteria of § 5C1.2 (“safety valve”). U.S.S.G. § 2D1.1(b)(6). In addition, where a defendant meets the criteria of § 5C1.2, the sentencing court “shall impose a sentence in accordance with the applicable guidelines without regard to any statutory minimum sentence.” U.S.S.G. § 5C1.2.

Ms. Roserie-Isabell has met all five of the criteria of § 5C1.2. First, as the PSI notes, she does not have more than one criminal history point. Second, in the offense she did not use or threaten to use violence and she did not possess a firearm or other dangerous weapon. Third, the offense did not result in death or serious bodily injury to a third person. Fourth, she was clearly not an organizer, leader, manager or supervisor of any others in the offense. Finally, after her arrest, Ms. Roserie-Isabell provided to the government a detailed statement noting all of the information she had regarding the offense. That statement, as transcribed by Customs agents, is attached as an appendix to this filing. In addition to that statement, Ms. Roserie-Isabell provided an acceptance of responsibility statement to the probation office. That statement, noted in the PSI, contains essentially the same information as the statement she gave after her arrest.

Ms. Roserie-Isabell has met all of the criteria of § 5C1.2. The base offense level for her offense is 26. Accordingly, this Court must reduce her offense level by two levels. See U.S.S.G. § 2D1.1(b)(6). In addition, this Court must sentence her to a sentence within the range proscribed by the applicable Guidelines calculations without any adherence to the five-year mandatory minimum sentence.

CONCLUSION

Ms. Roserie-Isabell respectfully requests that this Court grant her a two-level downward adjustment for meeting all of the safety-valve criteria. She further requests a four-level downward adjustment based on her minimal role in the offense. This would result in a total offense level of 17 which corresponds to a sentencing range of 24 to 30 months.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the aforementioned motion was mailed on this 2nd day of February, 2001, to Bruce Brown, Assistant United States Attorney Office, at 299 East Broward Boulevard, Fort Lauderdale, Florida 33301.

Bernardo Lopez

9/27/00 WENT TO JAMAICA AIR JAM FT. LAUD.
~~DECEASED~~ RAME TO FLL IN CAR. OWNER OF
FRANK LNU. A STATED THAT FRANK CALL
RECRUITED HER TO GO TO JM TO PURCHASE DRUGS.
ASSOCIATED OF A ~~W~~ WAS PURCHASING DRUGS
FROM FRANK LNU. F. LNU INQUIRED ABOUT
A. ASSOCIATE'S NAME IS SERENA, LNU. SERENA
~~INTRODUCED~~ A TO ~~F. LNU~~. F. LNU WAS
AT SERENA'S HOUSE AND F. LNU INQUIRED ABOUT
A. SERENA TOLD F. LNU ~~W~~ HIS NAME.
APPROX. ~~W~~ 1 WEEK BEFORE TRIP SERENA CALLED
HIS HOUSE AND SAID F. LNU WAS AT HIS
HOUSE AND SHE WANTED TO KNOW IF SHE
COULD BRING F. LNU BY HIS HOUSE, THAT
HE HAD A BUSINESS PROPOSITION. A ASKED
WHAT IT CONCERNED AND WAS TOLD THAT
THEY DID NOT WANT TO DISCUSS IT ON THE
PHONE. SERENA LNU & F. LNU WENT TO
HIS HOUSE.

F. LNU PROPOSITIONED A TO TAKE TRIP
TO JM BY BOAT OR PLANE ALL EXPENSES
PAID BY HIM. ~~HE WOULD LET~~ TO BUY
BAD COCAINE & THAT HE WOULD LET ~~A~~ TWO
QUANTITY ONCE SHE ARRIVED IN JM. F. LNU ALSO
ASKED A IF SHE HAD ANY FRIENDS THAT
WOULD LIKE TO GO. A ~~W~~ TOLD F. LNU THAT
SHE MAY HAVE FRIEND NAMED ~~YEVONNE~~ YEVONNE
GRAFT. F. LNU TOLD A TO ASK YEVONNE.
A CALLED AND ASKED YEVONNE IF SHE WANTED
TO GO TO JM THAT SOMEBODY WANTED THEM TO DO
SOMETHING AND ~~W~~ YEVONNE SAID "YEAH".

A TOLD YEVONNE THAT SHE DID NOT WANT
TO TELL HER WHAT IT WAS OVER THE PHONE.
~~SH~~ YEVONNE SAID I DON'T CARE ITS BEEN
A LIFE LONG DREAM SHE HAD TO GO TO JAIL.
~~SH~~ A + YEVONNE ~~RODE~~ DOWN
TO FIL WITH F. LNU IN A WHITE
SUV POSSIBLY A NAVIGATOR.

DEPARTED FROM CLEVELAND ON MONDAY
9/25/00 AT 1230PM. ARRIVED FIL
TUESDAY 9/26/00 7:30 AM. A + YEVONNE
WERE TAKEN TO A HOTEL (COMMERCIAL)
VEHICLE ~~#~~ DESCRIPTION WAS GIVEN BUT
NO TAG. REGISTERED UNDER REAL NAMES.
F. LNU DROPPED A + OTHER FEMALE AT
HOTEL AND LEFT, STATED HE WAS GOING
TO A FRIEND'S HOME. F. LNU RETURNED
AT 11:00 PM THAT EVENING TO SEE IF
THEY WERE OK AND TO LEAVE Monday's
Food. F. LNU CAME ~~BACK~~ w/ANOTHER
MALE FNU/LNU. F. LNU + FNU/LNU LEFT.
F. LNU ALSO OBTAINED TWO TICKETS OF
A + YEVONNE SO HE COULD GET THE
TICKETS. YEVONNE ASKED WHAT TIME
THEY WOULD BE LEAVING ON WEDNESDAY
SO THEY WOULD BE SURE TO BE AT
THE HOTEL. F. LNU SAID ABOUT 12, 1 OR
YEVONNE SAID WOULD CHECK OUT IS AT
TWO NOON. ~~SH~~ F. LNU SAID HE WOULD
BE THERE BECAUSE HE WANTED TO TAKE
THEM SHOPPING FOR NEW CLOTHES SO

THEY WOULD HAVE SOMETHING NEW FOR THE
WAY BACK AND WANTED TO HAVE HIS
HAIR BRAIDED.

F. LNU SHOWED BACK AT HOTEL ~~ON~~ THE
NEXT DAY W/ FNU LNU AT APPROX 10:00 A
TO HAVE HIS HAIR BRAIDED. ~~AT~~ F. LNU &
~~2ND INTR.~~ WERE WAITING IN PARKING LOT
FOR A + YEVONNE. FRANK WENT INTO
HOTEL WITH A + Y. FNU LNU WAITED
IN VEHICLE. A ASKED FRANK IF HE
HAD A COMB. FRANK SAID NO. Y TOLD
FRANK THEY SOLD THEM IN A MACHINE IN
THE LOBBY. FRANK DEPARTED AND DID
NOT RETURN UNTIL 12:10 OR 12:15 P.M.
THIS TIME ~~THE~~ FNU/LNU CAME IN AND WAITED
WHILE A BRAIDED FRANK'S HAIR.

THEY ALL DEPARTED HOTEL AND WENT TO A
SHOPPING PLAZA AND P/U UNKNOWN FEMALE
(PRO. FNU LNU'S WOMAN) FNU/LNU AND FRIEND
WERE DROPPED OF AT SOUND ART COMPLEX.
FRANK THEN RETURNED ~~TO~~ TO SHOPPING
PLAZA W/ A + YEVONNE. ALL ABOUT
OUTGUNS, THEN PROCEEDED TO AIRPORT
FRANK GAVE THEM THREE TICKETS AND
DROPPED THEM OFF AT THE DEPARTURE PARK
AND TOLD THEM TO CHECK IN AT AIR J.
HE STATED HE WAS GOING TO GO PARK ~~IN~~ CAR.
YEVONNE COULD NOT TRAVEL BECAUSE THEY WERE
NOT ACCEPT AUTO COPY OF LICENSE. YEVONNE
SPOKE TO FRANK WHEN HE RETURNED AND TOLD

SAD WANTED TO GO TO JAIL AND SAD WOULD ATTEMPT
TO GET A PHOTO I.D. SAD SAID IF SAD
COULDNT GET BACK IN TIME FOR THIS FLT.
SAD WOULD TRY TO GET ON ANOTHER FLT.
ON ANOTHER DAY. FRANK GAVE YOLANDA
\$120.00 AND ~~SHED~~ GAVE HER A PHONES NUMBER
AND THE NAME OF HOTEL "GLORIANA" ~~IN~~
IN MONTEGO BAY AND TOLD HER IF SHE
MADE TO JM THAT WAS HER TO ~~CONTACT~~ MAKE
CONTACT WITH HIM. SAD NEVER MADE IT.

~~FRANK~~ UPON ARRIVAL IN JM A AND FRANK
WERE PLACED AT AIRPORT BY FRANK'S BROTHER.
FRANK INTRO'D DAVID AS "MY BROTHER HE
DOES SECURITY. THE VEHICLE WAS A RED
PLATE TRUCK EXTENDED CAB. NEVER GAVE A
NAME. A WAS DROPPED AT HOTEL.
FRANK WENT INTO HOTEL AND REGISTERED
A AND PAID FOR ROOM. FRANK DID
NOT GO TO ROOM. LATER THAT DAY
FRANK RETURNED ~~A~~ AND TOOK A OUT
TO DINNER. FRANK WAS W/ A WOMAN
DIFFERENT MALE. BOUGHT A A SUB
SANDWICH AND THEN DEPARTED STATING
THAT A would hear from him. ALSO
GAVE A \$100.00 U.S.

FRANK CALLED Room Late The Next Day
(Thursday 9/28/00) ASKED how SAD was doing.

FRANK CAME BY HOTEL ON FRIDAY LATE EVENING. HOTEL CALLED A ROOM AND SAID "FRANKIE" IS HERE TO SEE YOU. FRANK HAD TO LEAVE HOTEL TO GET TO A ROOM. ROOM # 2130. FRANK DID NOT GO INTO ROOM. I ASKED IF IT WAS OK. FRANK LEFT AND DID NOT RETURN THE FRIDAY ~~THE~~ 9/29/00.

ON FRIDAY FRANK RETURNED TO HOTEL W/ A MAN NAMED MIKE. A WENT IN TO CAR AND WAS INVITED TO WORK. FRANK SAID HE ~~HE~~ WAS SICK SO LEFT HOTEL AT HOTEL AND TOOK A CAR W/ TROY TO DO ERANDS. FRANK WAS LOOKING FOR SOMEONE. WENT TO POLICE STATION AND CAME BACK OUT. WENT TO 3RD HOUSE. TROY WAS TAKEN BACK TO HOTEL. FRANK & MIKE DISAGREED. RETURNED THE NEXT DAY (SATURDAY 9/30/00) TOLD A TO GET A/C TICKET. FRANK TOLD A THAT HE WAS NOT FINISHED AND THAT SHE WAS GOING TO HAVE CHARGED FOR TICKET TO THE L.S.I. (100.00). THEY AGREED A TO RIDE W/ TROY AND WENT TO "A LOT" OF HOUSES THEN WENT TO THE GHOTTO PART OF MONTGOMERY BLVD. THEY KEPT GOING TO AN AUTO BODY SHOP. THEY STOPPED AT THE "IMMIGRATION'S OFFICE FOR THE CUSTODY

FRANK AS IMMIGRATION PERSON. FRANK +
~~TOOK A THAT~~ IMMIGRATION GUY WENT
UP TO AN OFFICE. WITHIN THIRY FEW
BACK TO THE CAR FRANK "SLIPPED" AND
ENVELOPED TO ~~THE~~ THE IMMIGRATION MALES.
FRANK ENTERED THE VEHICLE. FRANK STATED
"SINCE I HAVE PEOPLE IN ALL PLACES I HAVE
TWO PAPERS HERE AND SOMEBODY IN FLORIDA."
IMMIGRATION ~~ABOUT~~ ABOUT 6'4" DARK COMPLEXION
APPEARS. 20 LBS.

THEY DEPARTED DROPPED MILE AT
BODY STEP. FRANK DROPPED A BACK
AT HOTEL AT APPROX 3-4 PM. FRANK
CAME ROOM THAT EVER AND SAID IT WAS
WAS COMING TO GET A,

FRANK P/U A AND TOOK HER TO WHERE
HE WAS STAYING AND SHOWED HER THE
PELLETS. FRANK TOOK LITTLE BOY IN ROOM
TO LEAVE. HE RETRIEVED A BROWN
TOWER FROM ON TOP OF A METAL CABINET
INSIDE THE TOWER WAS WHITE BAG, INSIDE
THE WHITE BAG WAS A BLACK BAG WITH
APPROX 160-180 PELLETS. A ONLY
OBSERVED THE PELLETS ON THIS OCCASION.

A WAS TAKEN BACK TO HOTEL BY FRANK.
A EXPRESSED FEAR AT THAT TIME
REGATIVE TO THE SIZE OF PELLETS.

FRANK TOOK HER PAPERS AND TAKEN BIGGON
ONCE THAT THAT

ANOTHER 1 HR. LATER FRANK RETURNED

To Hotel w/mike AND told A he was taking her to AF to change ticket for next day which would be (Sunday 10/01/00) enroute to AF and started to explain first few words points:

(SA Richard takes over writing) *

- You will no longer see me.
- "Mike" is me.
- Mike will bring the pellets to △ for her to start taking.
- Find a rhythm I keep the rhythm while swallowing. Drink something comfortable.
- Don't be scared - most take them as such.
- Mike will be there whole time.

They arrive @ AF - △ changes ticket to Monday am flight. \$50 change fee.

Frank takes her + hotel - gave her foot \$ + said good-bye.

Mike calls next day @ 12 PM - Prices picked up + takes her + a house p bag w/ drugs.

Went & got food & drink &
returned to hotel. Paid for extra
day @ hotel - hid drugs in food
shopping bag. They go back & now
& Mike says he'll be back @ 5pm
& help her take the pills. It's stormy
@ 5pm & she starts scallywag.

Swallowed 51 & said could go
no more. He (Mike) leaves &
says he'll be back & see if she
can swallow more.

Meanwhile, O's many sisters go to the guest
so Mike decides she shall switch
hotels. So they chose hotels - name
unknown.

(P)

He leaves her there & says will be back w/ the vaginal insert. He comes back mid-night w/ insert & eventually got it in. Next am went to A/P w/ Mike. He gives her \$50 for charge fee for ticket & some other money. She boards plane. Did not know how much \$ she was going to be paid for delivery. Did not know who was going to pick her up - she assumed it would be Frank.